

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

LUCY GALVAN
Plaintiff,

vs.

WAL-MART STORES TEXAS, LLC
Defendant.

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CIVIL ACTION NO. _____
(DIVERSITY)

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441(B) (DIVERSITY)**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant, **WAL-MART STORES TEXAS, LLC**, hereby removes to this Court the state court action described below.

1. On October 16, 2017, an action was commenced in the County Court at Law No. 4, Cameron County, Texas, entitled *Lucy Galvan vs. Wal-Mart Stores Texas, LLC*, in Cause Number 2017-CCL-01114, *a copy is attached hereto as Exhibit A*.

2. The first date upon which Wal-Mart Stores Texas, LLC, received a copy of said complaint was October 23, 2017, when Wal-Mart was served with a copy of the said complaint and a citation from the said State Court. A copy of the citation is *attached hereto as Exhibit B*. In accordance with Local Rule 81, the following constitutes all of the executed process, pleadings, and orders served upon Plaintiff and Defendant in this action:

- a) Plaintiff's Original Petition, Request for Admissions, Request for Disclosure, Request for Production and First Set of Interrogatories;
- b) Copy of Return Citation of Defendant Wal-Mart Stores Texas, LLC;
- c) Docket Sheet;
- d) Defendant's Original Answer, Affirmative Defenses and Special Exceptions to Plaintiff's Original Petition and Requests for Disclosure;
- e) Defendant's Request for Jury Trial;
- f) Order Setting Hearing on Defendant's Special Exceptions;
- g) Order Granting Plaintiff's Motion for Telephonic Docket Control Conference;
- h) Plaintiff's First Amended Petition;
- i) Rule 11 Agreement Passing Hearing
- j) Defendant's Certificate of Written Discovery; and
- k) Agreed Docket Control Order.

In addition and in accordance with the Local Rule, Defendant includes a copy of the docket sheet of the state court matter *a copy of which is attached hereto as Exhibit C*.

3. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441(b) in that it is a civil action wherein the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different states. On January 29, 2018, Wal-Mart Stores Texas, LLC was served with Plaintiff's responses to Defendant's Interrogatories and Request for Production. Subsequent review and analysis of those records and bills on February 5, 2018 demonstrate past medical expenses in the amount of approximately \$50,000.00 and a future surgical recommendation with an estimated expense of \$66,500.00. As such, Defendant submits that the amount in controversy is in excess of the \$75,000.00 alleged by the plaintiff, and removal is appropriate pursuant to 28. U.S. § 1441(b).

4. Defendant, Wal-Mart Stores Texas, LLC, is informed and believes that Plaintiff was and still is citizen of the State of Texas and resident of Cameron County, Texas.

5. Defendant, Wal-Mart Stores Texas, LLC, was, at the time of the filing of this action, and still is; a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Arkansas, and has been served summons and complaint in this action.

6. Copies of all pleadings, process, orders and other filings in the state-court suit are attached to this notice as required by 28 U.S.C. §1446(a).

7. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

8. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

9. Plaintiff did demand a jury in the state court suit. Defendant likewise demanded a jury in the state court suit.

10. For the foregoing reasons, Defendant asks the Court to remove the suit to The United States District Court, Southern District of Texas, Brownsville Division.

DATED: March 7, 2018.

Respectfully submitted,

/s/ Jaime A. Drabek

Jaime A. Drabek, Attorney-in-Charge

Federal ID No. 8643

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Ricardo G. Benavides

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ATTORNEYS FOR DEFENDANT,

WAL-MART STORES TEXAS, LLC

CERTIFICATE OF SERVICE

I, Jaime A. Drabek, hereby certify that on **March 7, 2018**, a true and correct copy of the foregoing instrument was sent to all counsel of record by electronic mail delivery to wit:

Mr. Humberto Tijerina, III

TIJERINA LEGAL GROUP, P.C.

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/s/ Jaime A. Drabek

Jaime A. Drabek

THE STATE OF TEXAS §
§
COUNTY OF HIDALGO §

AFFIDAVIT

BEFORE ME, the undersigned authority, on this day personally appeared Ricardo G. Benavides of McAllen, Hidalgo County, Texas, who being by me duly sworn, deposes and says that he is an attorney for Defendant in the present cause filed by Lucy Galvan; that he has been authorized to make this Affidavit; and that he has read the foregoing Notice of Removal and knows the contents thereof, and that the matters and facts therein contained are true and correct.

FURTHER AFFIANT SAYETH NOT.


Ricardo G. Benavides, AFFIANT

SWORN TO AND SUBSCRIBED before me on this 7th day of March,
2018.




NOTARY PUBLIC IN AND FOR STATE OF TEXAS